

REMARKS

This is in response to the Office Action dated March 4, 2004 and the references cited therewith.

Claim 29 is amended, no claims are canceled, and no claims are added; as a result, claims 1-46 remain pending. Support for the amendment of claim 29 is found throughout the specification, including, for example, Fig. 2 and the description thereof.

Information Disclosure Statement

Applicant submitted a Supplemental Information Disclosure Statement and a Form 1449 on February 27, 2004. Applicant respectfully requests that an initialed copy of the Form 1449 be returned to Applicants' Representatives to indicate that the cited references have been considered by the Examiner.

§102 Rejection of the Claims

Claims 1-3, 5, 8-40 were rejected under 35 USC § 102(b) as being anticipated by Barreras (U.S. Patent No. 5,807,397).

Applicant respectfully traverses the rejection and submits that *prima facie* anticipation has not been established because the cited document does not appear to teach each element recited in the claim. For example, Applicant is unable to find, in Barreras, a teaching of a duty cycle, as recited in claim 1. In addition, Applicant is unable to find, in Barreras, a teaching of a plurality of wireless transmitters of an implantable medical device, as recited in claim 17. Notwithstanding the aforementioned amendment, Applicant is unable to find, in Barreras, a teaching of a plurality of data receivers, as recited in claim 29. Furthermore, Applicant is unable to find, in Barreras, a teaching of closing the channel after a predetermined period, as recited in claim 36. In making the assertion of anticipation, the Office Action does not appear to provide citations to specific portions of Barreras evincing support for the aforementioned claim elements.

As to dependent claims 2-3, 5, 8-16, 18-28, 30-35 and 37-40, Applicant respectfully submits that each recites additional elements beyond that of the corresponding independent claim and, for at least the reasons presented above, each is believed to be in condition for allowance.

Reconsideration and allowance of claims 1-3, 5, 8-40 is respectfully requested.

§103 Rejection of the Claims

Claims 1, 4, 6, 7, 39, 40-42 and 46 were rejected under 35 USC § 103(a) as being unpatentable over Barreras (U.S. Patent No. 5,807,397).

Applicant respectfully traverses the rejection and submits that *prima facie* obviousness has not been established because the proposed combination of Barreras and the knowledge of one of skill in the art does not appear to teach or suggest each element recited in the claim. For example, Applicant is unable to find, in the proposed combination, a teaching or suggestion of a duty cycle, as recited in claim 1. In addition, and pursuant to M.P.E.P. § 2143.03, Applicant respectfully submits that dependent claims 4, 6 and 7 are in condition for allowance because each depends from an independent claim believed to be non-obvious and because each recites additional elements beyond claim 1. Furthermore, Applicant is unable to find, in the proposed combination, a teaching or suggestion of closing the channel after a predetermined period, as recited in independent claim 36, from which claims 39 and 40 each depend. Applicant is also unable to find, in the proposed combination, a teaching or suggestion of a duty cycle as recited in claim 41. In addition, and pursuant to M.P.E.P. § 2143.03, Applicant respectfully submits that dependent claims 42 and 46 are in condition for allowance because each depends from an independent claim believed to be non-obvious and because each recites additional elements beyond claim 41.

In addition, Applicant submits that the Office Action has not established a source for the asserted motivation to combine Barreras with the knowledge of one of skill in the art. For example, as to claim 1, the Office Action does not appear to set forth any motivation or suggestion. As to claims 4 and 7, the Office Action asserts "one of ordinary skill in the art would have found it obvious to modify . . . Barreras . . . because these are two well known antenna configurations." Applicant submits that this assertion does not satisfy the burden of establishing *prima facie* obviousness. Pursuant to M.P.E.P. § 2143.01, the fact that references can be combined or modified is not sufficient to establish *prima facie* obviousness. Here, the Office Action appears to stop short of establishing the requisite motivation because, *inter alia*, the

Office Action does not establish, in the cited document, the desirability of the proposed combination.

As to claims 6, 40-42 and 46, the Office Action sets forth assertions that are not supported in the record but instead, appears to rely on official notice. Applicant requests citation to an authority, entry of an affidavit or withdrawal of such assertions. Applicant notes that mere reference to common knowledge or common sense is insufficient to supply the motivation or suggestion to combine references to support an obviousness rejection.

Reconsideration and allowance of pending claims 1, 4, 6, 7, 39, 40-42 and 46 is respectfully requested.

Allowable Subject Matter

Claims 43-45 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant respectfully submits that claims 43-45 are in condition for allowance as presented. Reconsideration and allowance of claims 43-45 is respectfully requested.

Conclusion

Applicant respectfully submits that the pending claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6911 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

JEFFREY A. VON ARX ET AL.

By their Representatives,

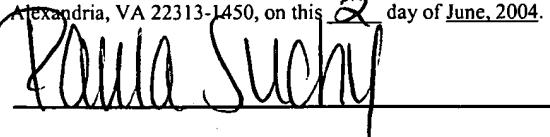
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Date June 2, 2004

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, MS: Amendment, P.O. Box 1450, Alexandria, VA 22313-1450, on this 2 day of June, 2004.



Signature